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Working Group on Contemporary
Forms of Slavery
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4-13 May 1992
Item 3 of the provisional agenda

REVIEW OF INFORMATION RECEIVED ON THE STATUS AND THE IMPLEMENTATION OF CONVENTIONS ON SLAVERY AND SLAVERY-LIKE PRACTICES

Information received from States concerning the Slavery Convention, the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others

Note by the Secretary-General

Addendum

Ecuador

Spain

GE.92-12137/3699H

ECUADOR

[24 March 1992]
[Original: Spanish]

A. Measures within the Ecuadorian educational system to prevent prostitution

1. Education is the best means of averting social problems, among them prostitution. Steps are therefore being taken within the Ecuadorian educational system, in particular by means of sex education, to prevent the traffic in persons in the medium and long term.

2. Article 27, fifth paragraph of the Constitution states:

> "Education shall have a moral, historical and social orientation, it shall stimulate the development of the student's critical ability for a proper understanding of the situation of Ecuador, the encouragement of a genuine national culture, human solidarity and social and community activities."

3. Similarly, the eleventh paragraph of the same article stipulates that "The education plans shall have as their objective the overall development of the individual and of society."

4. According to chapter V of the General Regulations under the Education Act, the aims of the educational system are to:

> "Promote the overall, harmonious and continuous development of the potential and values of Ecuadorians;
>
> Encourage the understanding, appreciation, protection and maintenance of health, sport, physical education, individual and group recreation, and the appropriate use of free time;
>
> Guide the overall formation of the child's personality and the harmonious development of his intellectual, emotional and psychomotor potential in accordance with his stage of development;
>
> Encourage the student to acquire habits which protect and maintain health and the environment; and,
>
> Provide the student with comprehensive guidance so that he can use his potential to the full and take responsible decisions."

5. The 1989-1992 National Development Plan lays down various aims, general strategies and programmes of action in the field of education.

6. The education process involves certain policies for the improvement of the quality of education, the broadening of the curriculum, the development of human resources, and the production of teaching materials.

7. The programme of education in the field of population, which receives financial and technical support from UNESCO and the United Nations Population Fund, has stressed that sex education should entail activities designed to instil in the individual, the family and the community, values, attitudes and behaviour which promote dignity, freedom, social justice and the full exercise of human rights.

8. At present, the curricula at primary and secondary levels approach themes related to sex in an unsystematic, uncohesive way, stressing only the biological aspect and not the reflective aspect relating to the formation of values, attitudes and conduct. They have the limited aim of teaching the functions and physiology of the human reproductive organs, thus making lessons abstract and preventing the desired educational aim from being achieved. For this reason, the Ministry of Education has taken steps to reform the curricula, since the education authorities are fully aware that sex education should be imparted in conjunction with principles and rules of individual conduct.

B. Proposal for the curriculum at the primary level and for teacher training; aims for the secondary level

9. Teacher-training programmes have been carried out with regard to the methodology and content of sex education. They include matters connected with the moral values and rules of conduct guiding children and adolescents.

10. In order to ensure that sex education can contribute to the prevention of the traffic in persons which stems from ignorance, prejudice, distorted ideas, poverty, lack of basic education and social violence in general, elements have been incorporated and/or adapted in the curricula at the primary and secondary levels. They stress reflection and the development of self-esteem as a means of shaping attitudes, values and standards of behaviour.

C. Comprehensive health programmes for the nursery, primary and secondary levels

11. The Health Education Department, the OTIDES Convention and the Epidemiology Office of the Ministry of Public Health have implemented the comprehensive health programme for the nursery, primary and secondary levels, with the community also being involved. Its main aim is to make secondary-level students more aware of the problems of sexually transmitted diseases and in particular of AIDS, and to inform them of means of prevention.

12. The mental health and health services programme incorporates features relating to sex education as regards the epidemiology and prevention of sexually transmitted diseases. Student leaders at secondary schools in the country's provincial capitals are being given training. The programme has held 44 workshops which have involved 455 schools, 2,724 students and 315 instructors and reached an estimated 400,000 pupils.

SPAIN

[5 March 1992]
[Original: Spanish]

1. Contemporary forms of slavery include:

A. Trafficking in prostitution

2. The draft of a new Criminal Code, which is currently before the General Council of the Judiciary for a report, and has every likelihood of becoming law, deals with this offence in articles 186 to 189 inclusive, which appear in book I, title VII (Offences against sexual freedom), chapter IV of the draft.

The articles in question are reproduced below:

"Article 186

1. Anyone who induces, promotes, encourages or facilitates the prostitution of a person under 18 years of age shall be liable to a prison sentence of 6 months to 3 years and a fine equivalent to the minimum wage for 12 to 24 months.

2. In addition, anyone who, being in a position of public authority, a representative of public authority or a civil servant, takes advantage of his status to commit the above acts shall incur the penalty of general disqualification for 6 to 12 years.

"Article 187

1. Anyone who compels a person over 18 years of age to practise or remain in prostitution unwillingly shall be liable to a prison sentence of 6 months to 3 years and a fine equivalent to the minimum wage for 12 to 24 months.

2. In addition, anyone who, being in a position of public authority, a representative of public authority or a civil servant, takes advantage of his status to commit the acts described in the previous paragraph shall incur the penalty of general disqualification for 6 to 12 years.

3. If such acts are committed against a person under 18 years of age, the next more severe penalty shall be imposed.

"Article 188

1. If an establishment or premises, whether or not open to the public, are used for the commission of the offences covered in this chapter, the judge or court may order their temporary or permanent closure. The period of temporary closure cannot exceed 5 years.

2. The above measure may also be taken on a precautionary basis.

"Article 189

1. Anyone who, having a minor or legally incompetent person under his authority or protection, is aware of the latter's prostitution and yet does not do everything within his power to prevent the said practice from continuing, or does not approach the authorities to the same end if the necessary means for protection are lacking, shall be liable to a fine equivalent to the minimum wage for 3 to 10 months.

2. If the administrative authorities are aware that a minor is practising prostitution, whether or not of his own free will, but with the consent of the persons who exercise family, moral or social authority over him, or if there are no such persons, or if they have abandoned the minor or fail to provide for his protection, the said authorities shall immediately report the matter to the public entity which is responsible for the protection of minors in the area concerned and to the government procurator's office, so that each can act in accordance with its responsibilities."

B. Trafficking in begging by children

3. While slavery is detestable in all its forms, it is all the more so when children are involved.

4. In a clear rejection by society of such inadmissible acts, the draft Criminal Code makes the use of children for begging a punishable offence.

"Article 231

1. Anyone who uses or lends children under 16 years of age for the purpose of begging shall be liable to a prison sentence of 6 months to 1 year.

2. For the purposes of the preceding paragraph, anyone who trafficks in children under 16 years of age, practises violence or intimidation against them, or administers substances injurious to their health, shall be liable to a prison sentence of 1 to 4 years.

"Article 232

1. Anyone committing an offence covered by articles 228 to 231 may be deprived of parental authority or rights of custody, guardianship or tutelage if the judge or court deems it appropriate in view of the minor's circumstances.

2. The government procurator's office shall at all events call upon the competent judicial authority to adopt appropriate measures for the appropriate care and protection of the minor."

C. Trafficking in labour

5. The draft penalizes certain infringements of workers' rights which might constitute a contemporary form of slavery. Thus:

"Article 287. A prison sentence of 6 months to 3 years and a fine equivalent to the minimum wage for 6 to 12 months shall be imposed on:

1. Anyone who uses deception or abuses a situation of need to impose working or social security conditions on the workers in his employ which are detrimental to, suppress or restrict their recognized rights under legal provisions or collective agreements.

2. Anyone who, after the transfer of a business, maintains the above-mentioned conditions imposed by another person.

"Article 288

1. Anyone who trafficks illegally in labour shall be liable to the penalty stipulated in the preceding article.

2. Anyone who recruits persons or makes them decide to leave their job by offering them work or working conditions which are misleading or false, and anyone who employs foreign workers without a work permit in irregular conditions, shall be liable to the same penalty.

"Article 289

1. Anyone who by any means instigates or encourages the clandestine immigration of workers to Spain, shall be liable to a prison sentence of 1 to 3 years or a fine equivalent to the minimum wage for 12 to 24 months.

2. Anyone who, under the pretence of the existence of a contract of employment or job or the use of other similar deception, brings about or encourages the emigration of a person to another country shall be liable to the same penalty.

"Article 290

Anyone who within the State of Spain is guilty of serious discrimination in employment on grounds of sex, origin, civil status, race, social position, religious or political ideas, adherence or non-adherence to trade unions and trade-union agreements, family ties with other workers in the enterprise or language shall be liable to a prison sentence of 6 months to 2 years or a fine equivalent to the minimum wage for 12 to 24 months.

"Article 291

Anyone who, being legally obliged to do so, fails to take the necessary steps to ensure that workers can perform their activities in accordance with safety and health requirements, and infringes the

regulations on the prevention of occupational hazards, thereby endangering workers' health and physical integrity, shall be liable to a prison sentence of 1 to 3 years and a fine equivalent to the minimum wage for 12 to 24 months, without prejudice to other penalties deriving from any resultant incident.

"Article 292

If the acts mentioned in the preceding articles are committed by legal persons, the penalty indicated shall be imposed on the administrators or responsible officials who have committed the acts or who, being aware of them and having the means to do so, fail to take steps to put a stop to them. As appropriate, the enterprise may also incur subsidiary civil liability."

D. Genocide

6. The draft specifically covers crimes of genocide, defining them as being conduct indicative of an intention to totally or partially destroy a national, ethnic, racial or religious group. Article 577 states:

"Persons who, with the intention of totally or partially destroying a national, ethnic, racial or religious group, commit any of the following acts shall be punished:

1. With a prison sentence of 15 to 20 years if they kill a member of such a group.

If two or more aggravating circumstances are present, the next more severe penalty shall be imposed.

2. With a prison sentence of 15 to 20 years if any of the injuries mentioned in articles 155 and 156 of this Code are caused.

3. With a prison sentence of 8 to 15 years if they subject the group or any of its members to conditions of existence which are life-threatening or seriously detrimental to health.

4. With the same penalty if they forcibly displace the group or members thereof, take any measure to interfere with its way of life or reproduction, or transfer individuals by force from one group to another.

5. With a prison sentence of 4 to 8 years if they cause any other injury."

7. The efforts of the Government of the Kingdom of Spain to include in the draft Criminal Code new and more up-to-date definitions of offences which in fact are characteristic of slavery, are a reflection of Spain's commitment to respect human rights and a demonstration of how to adapt the law to contemporary forms of conduct which, subtly or less subtly, prevent individuals from exercising their right to freedom.